

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA
EASTERN DIVISION

David A. Blasi and Paula J. Blasi,)
as trustees of the Blasi Living Trust, on)
behalf of themselves and a class of similarly) Case No. 3:20-cv-00085
situated persons,)
)
Plaintiffs,)
)
v.)
)
Bruin E&P Partners, LLC and Bruin E&P)
Operating, LLC,)
)
Defendants.)
)
)

**STATUS REPORT AND LIFTING OF STAY FOR PURPOSES OF
BEING HEARD ON AND/OR PARTICIPITING IN ANY CERTIFICATION PROCESS
TO THE NORTH DAKOTA SUPREME COURT**

[¶1] Bruin E&P Partners, LLC and Bruin E&P Operating, LLC (collectively, “Bruin”) in compliance with the Court’s September 11, 2020 Order [Doc 15] submit this status report and request to lift the stay for the limited purpose of being heard on and/or participating in any certification of a legal question affecting this case and the parties’ right to the North Dakota Supreme Court. Bruin has contacted Plaintiff’s counsel, and Plaintiff has not objection to the limited lifting of the stay to allow Bruin to be heard and/or participate in the process.

[¶2] On September 10, 2020, the parties filed their Notice of Entry of Confirmation Order in Bankruptcy Proceeding and Stipulation to Continue Stay Until, and to Be Bound By, Ruling in Related Case [Doc 14] (“Notice and Stipulation”), (i) notifying the Court that the automatic stay had been lifted, (ii) stipulating to be bound by a ruling on the motion to dismiss filed in *Blasi Trust*,

et al. v. Kraken Development III, LLC and Kraken Operating, LLC, Case No. 3:20-cv-00092-PDW-ARS (D.N.D.) (the “*Kraken* case”), and (iii) continuing the stay until that ruling is issued.

[¶3] In the parties’ Notice and Stipulation (¶3), they explained and further stipulated that:

absent the stay, Bruin has represented that it would file a motion to dismiss raising the same legal arguments set forth in the briefing on the *Kraken* Motion to Dismiss, which Blasi Trust would oppose in this case as it did in the *Kraken* case. Thus, subject to the Court’s approval, and for purposes of judicial economy and to conserve both the parties’ and judicial resources, Blasi Trust and Bruin hereby stipulate and agree in this case to be bound by the ruling of the Court in the *Kraken* case on the *Kraken* Motion to Dismiss, which ruling will automatically lift the aforementioned continued stay of this case.

[¶4] Since the parties’ Notice and Stipulation, the case has been stayed, and the Court *sua sponte* has raised the issue of potentially certifying a question of law to the North Dakota Supreme Court in the *Kraken* case and three other putative class actions filed by the Blasi Trust instead of ruling on the *Kraken* motion to dismiss (or the motions to dismiss filed in the other putative class actions).

[¶5] While the parties do not suggest that there was anything wrong with the Court raising or considering the certification issue, doing so changes the circumstances under which the parties had agreed to the stay in this case. Any certification proceeding necessarily would affect this case and the parties’ rights. Blasi Trust already has the ability to be heard on and/or participate in that process through its other cases, but Bruin does not.

[¶6] Thus, Bruin withdraws its stipulation, but only to the extent that it may be heard on and/or participate in any certification process of a question or questions to the North Dakota Supreme Court, and requests the Court to lift the stay for only that purpose.

Dated: November 10, 2020

/s/ Robin Wade Forward

Robin Wade Forward (ND Bar 05324)
STINSON LLP
811 East Interstate Avenue
Bismarck, ND 58503
Telephone: (701) 221-8600
rob.forward@stinson.com

/s/ Matthew J. Salzman

Matthew J. Salzman
STINSON LLP
1201 Walnut Street, Suite 2900
Kansas City, MO 64106
Telephone: (816) 691-2495
matt.salzman@stinson.com

Paul J. Forster (ND ID #07398)

pforster@crowleyfleck.com

Zachary R. Eiken (ND ID #07832)

zeiken@crowleyfleck.com

CROWLEY FLECK PLLP

100 West Broadway Ave., Suite 250

P.O. Box 2798

Bismarck, ND 58502-2798

Telephone: (701) 223-6585

Attorneys for Bruin E&P Partners, LLC and Bruin E&P Operating, LLC